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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,011	10/31/2003	John Deryk Waters	300204382-2	8237
22879	7590	07/13/2004	EXAMINER	
HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400			HESS, DANIEL A	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicant No.

10/697,011

Applicant(s)

WATERS, JOHN DERYK

Examiner

Daniel A Hess

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/31/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15 is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This action is in response to an initial filing of 10/31/2003, which has been placed in the file of record.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 7, 8, 16 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Poliak et al. (US 2002/0089448 A1). Poliak teaches a transponder system having all of the elements and means as recited in claims 16 and 17.

Re claim 1, 8, 16: Study entire document: See paragraphs [0013] to [0020], especially [0016]. A passive system sends out a response in the form of an ID upon interrogation (see [0038]). If the magnitude of the signal exceeds a certain threshold, the system moves into an active mode. The passive response system can be considered to be a detector-transmitter combination.

Re claim 17: Once in active mode [0053], a memory is activated and written to.

Re claim 3: See [0010]: detector module is responsive to the output voltage. Note that amplitude of the signal is used: this implies rectifying.

Re claim 7: The passive system of Poliak et al. is necessarily inductive.

Claims 9-14 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Turner et al. (US 5,305,008). Turner teaches a transponder having all of the elements and means as recited in claims 9-14 and 18. For example, Turner teaches the following:

Re claims 9, 18: Turner teaches (column 3, line 60 to column 4, line 30) an interrogator system which interrogates identification tags via radio. Turner makes it clear that in at least one mode of operation (column 14, line 58 to column 15, line 8) that if an object is sensed, i.e. identified, power on the interrogator can be increased: “when it is sensed, possibly during the low power period, that an object may be moving quickly through the field of the interrogator, the intervals between high-power periods may temporarily shortened to present to such rapidly moving object several high power periods.” The purpose is to expose the transponder to high power at a time that overlaps with a time that the transponder is nearby. Note that the label (column 6, line 43) has a code generator 8 which gives an ID in response to interrogation.

Re claim 10: All of the claimed components are listed: see column 12, lines 40-52.

Re claims 11 and 12: As discussed, the label has a code generator. In a radio-frequency ID system, the entire purpose of this code is that it be conveyed to the interrogator; hence the interrogator will have a detecting means for this code that comes back as a response.

This detecting means can be called either an identifier module or a correlator.

Re claim 13: See column 7, line 24: Inductive coupling is employed.

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Re claim 14: See claim 9, above. Note that an identifier module is a part of just about any reader, including the present one (see claims 11 and 12 above); a resonant circuit (antenna) is needed for all interrogators (see also column 12, lines 40-52).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2, 4, 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poliak et al.

Re claims 2, 4, 5: It is clear in Poliak et al. ([0053]) that memory becomes activated when an operating mode is entered, when the output signal is high enough. Whether the memory is connected directly or indirectly (i.e. via a processor) it is connected somehow, in order to be written to.

Re claim 6: An identifier which is returned can be considered pseudorandom; pseudorandom is a very broad term that encompasses many digital sequences.

Allowable Subject Matter

Claim 15 is allowed.

The following is a statement of reasons for the indication of allowable subject matter: A transponder system having all of the limitations of claim 15 was not found in the prior art of record. Also, since the system involves components which operate together in a coordinated way, combinations would tend to involve impermissible hindsight.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel A Hess whose telephone number is (571) 272-2392. The examiner can normally be reached on 8:00 AM - 5:00 PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

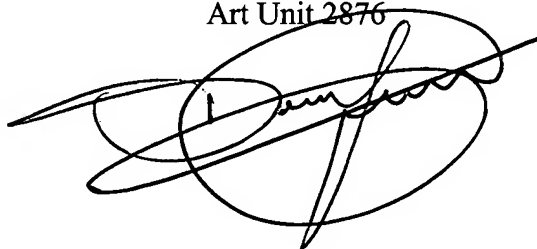
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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DH

Daniel A Hess
Examiner
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